



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN**

**GERALD C. MANN  
ATTORNEY GENERAL**

**Honorable O. E. Geron  
County Attorney  
Hector County  
Odessa, Texas**

**Dear Sir:**

**Opinion No. 0-1877**

**Re: Are fees collected by the sheriff under Articles 1029 and 1034, Code of Criminal Procedure, to be accounted for in computing the maximum annual salary to be retained by the sheriff?**

**Your request for opinion upon the above stated question has been received and carefully considered by this department.**

**Article 1029, Code of Criminal Procedure of Texas, provides certain fees to be paid sheriffs and constables by the State of Texas. Section 1 of said article provides arrest and mileage fees. Section 2 of said article provides fees for attaching and summoning witnesses. Section 3 of said article provides a fee for summoning a jury in each case where a jury is sworn in. Section 4 of said article provides fees for removing or conveying prisoners, etc. Section 5 of said article, as amended by the acts of the 43rd Legislature of Texas, provides mileage fees for executing criminal process and summoning or attaching witnesses. Section 6 of said article also provides for mileage fees. Section 7 of said article provides for fees and expenses in connection with conveying attached witnesses to court, provides fees and expenses for conveying witnesses in habeas corpus proceedings out of his county, etc. Section 8 of said article provides fees for attending prisoners on**

Honorable O. E. Carron, page 2

habeas corpus, with mileage fees, etc.

Article 1034, Code of Criminal Procedure of Texas, provides for the examination and approval or disapproval by the district judge of the officers' account against the State.

Articles 3883 and 3891, Revised Civil Statutes of Texas, set out the maximum fees which may be retained by precinct, county and district officers of this State.

We call your attention to the last paragraph of Article 3891, Revised Civil Statutes of Texas, which reads as follows:

"The compensation, limitations and maximums herein fixed shall also apply to all fees and compensation whatsoever collected by said officers in their official capacity, whether accountable as fees of office under the present law, and any law, general or special, to the contrary is hereby expressly repealed. The only kind and character of compensation exempt from the provisions of this Act shall be rewards received by Sheriffs for apprehension of criminals or fugitives from justice and for the recovery of stolen property, and moneys received by County Judges and Justices of the Peace for performing marriage ceremonies, which sum shall not be accountable for and not required to be reported as fees of office."

Clearly, the fees set out in Article 1029, Code of Criminal Procedure, do not come within any of the exceptions in the last paragraph of Article 3891, Revised Civil Statutes, supra.

You are therefore respectfully advised that it is the opinion of this department that your question should be answered in the affirmative and it is so answered.

APPROVED FEB 23, 1940

Yours very truly

ATTORNEY GENERAL OF TEXAS

*Gen. S. B. Mann*  
ATTORNEY GENERAL OF TEXAS

By

*Wm. J. Fanning*

Wm. J. Fanning  
Assistant

WJF:LW

